

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Craig Anderson	Team: Squad #4	CCRB Case #: 201700406	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 01/13/2017 4:00 PM	Location of Incident: § 87(2)(b) 113th Precinct stationhouse	Precinct: 113	18 Mo. SOL 7/13/2018	EO SOL 7/13/2018	
Date/Time CV Reported Sun, 01/15/2017 10:07 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 01/15/2017 10:07 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)		
§ 87(2)(b)		
§ 87(2)(b)		
§ 87(2)(b)		

Witness(es)	Home Address
§ 87(2)(b)	
§ 87(2)(b)	
§ 87(2)(b)	

Subject Officer(s)	Shield	TaxID	Command
1. POM Yevgeniy Zaytsev	12848	949825	113 PCT
2. POM Michael Procida	12633	961124	113 PCT
3. LT David Goldstein	00000	932721	113 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Edward Silvester	02780	918332	113 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Yevgeniy Zaytsev	Force: At § 87(2)(b) in Queens, Police Officer Yevgeniy Zaytsev used physical force against § 87(2)(b)	
B.POM Yevgeniy Zaytsev	Abuse: At the 113th Precinct stationhouse, Police Officer Yevgeniy Zaytsev refused to provide his shield number to § 87(2)(b)	
C.POM Michael Procida	Abuse: At the 113th Precinct stationhouse, Police Officer Michael Procida refused to provide his shield number to § 87(2)(b)	
D.LT David Goldstein	Abuse: At the 113th Precinct stationhouse, Lieutenant David Goldstein threatened to arrest § 87(2)(b)	
E.LT David Goldstein	Abuse: At the 113th Precinct stationhouse, Lieutenant David Goldstein threatened to arrest § 87(2)(b)	

### Case Summary

§ 87(2)(b) filed this complaint in person at the 113<sup>th</sup> Precinct stationhouse on January 13, 2017, on behalf of his son, § 87(2)(b) (BR 01). He filed the same complaint via the CCRB's website on January 15, 2017 (BR 02). § 87(2)(b)'s mother, § 87(2)(b) was not present for the incident, but requested that she also be listed as a complainant.

On January 13, 2017, at approximately 4 p.m., § 87(2)(b) was waiting for a bus outside of his school, § 87(2)(b), located at § 87(2)(b) in Queens. He got into a dispute with a few other students at the bus stop. PO Yevgeniy Zaytsev and PO Michael Procida of the 113<sup>th</sup> Precinct drove by the bus stop at that time and stopped when they observed the dispute. PO Zaytsev approached § 87(2)(b) and allegedly slammed his face into the glass wall of the bus stop (**Allegation A**). § 87(2)(b) left the bus stop and had no further interaction with the officers at that location.

After § 87(2)(b) informed his family of the incident, he went to the 113<sup>th</sup> Precinct stationhouse with his father, § 87(2)(b) his aunt, § 87(2)(b) and his aunt's boyfriend, § 87(2)(b). They spoke to the desk officer, Sgt. Edward Silvester, who provided the names of PO Zaytsev and PO Procida and gave § 87(2)(b) a complaint form. Sgt. Silvester called the officers to the stationhouse to talk to the family. § 87(2)(b) asked PO Zaytsev and PO Procida for their shield numbers, which they allegedly did not provide (**Allegations B and C**). While the family waited for Sgt. Silvester to finish the complaint form, Lieutenant Goldstein approached them. After a disagreement, Lieutenant Goldstein threatened to arrest § 87(2)(b) and allegedly threatened to arrest § 87(2)(b) (**Allegations D and E**).

§ 87(2)(b) took § 87(2)(b) to § 87(2)(b) the next day. He was diagnosed with swelling to his upper lip and face and was given pain medicine (see Privileged Documents).

There is no known video footage of this incident.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- § 87(2)(b) and § 87(2)(b) filed a Notice of Claim for ten million dollars as compensation for § 87(2)(b)'s injuries and trauma (BR 03). The information in their Notice of Claim was generally consistent with their CCRB testimony.
- § 87(2)(b) is § 87(2)(b) and, as a juvenile, would have no criminal convictions in the Office of Court Administration database.
- § 87(2)(b)

### Civilian and Officer CCRB Histories

- This is the first CCRB case in which § 87(2)(b) and § 87(2)(b) are named (BR 05).
- PO Zaytsev has been a member of the NYPD for six years. There are eight other complaints against him containing 16 allegations, including six force allegations.

- In case 201411788, the CCRB substantiated a vehicle stop and recommended charges. PO Zaytsev was found not guilty at an APU trial.
- PO Procida has been a member of the NYPD for one year. This is the first CCRB complaint against him.
- Lieutenant Goldstein has been a member of the NYPD for 13 years. There are eight prior complaints against him containing 17 allegations, none of which were substantiated. His complaint history does not indicate any pattern relevant to this case.

### Potential Issues

- Video footage was obtained from § 87(2)(b) and from a nearby TARU camera. However, none of the footage showed § 87(2)(b)'s interaction with the police.
- Numerous students were at the bus stop at the time of the incident, but § 87(2)(b) and his parents only knew the full names of two of them: § 87(2)(b) and § 87(2)(b). They did not have contact information for either individual. As both identified witnesses are minors, CCRB policy requires that their parents give permission for their children to be interviewed. The dean of § 87(2)(b), § 87(2)(b) said there is no student named § 87(2)(b) at that school. He said that he spoke to § 87(2)(b)'s parents on April 4, 2017, and asked them to contact the investigator. To date, they have not done so. A CLEAR search yielded negative results for § 87(2)(b). Thus, no witness testimony regarding the force allegation was available.
- § 87(2)(b) did not respond to repeated contact attempts by phone and mail. She was called at the number provided by her family members five times between February 14, 2017, and March 7, 2017. A voicemail was left each time. A Lexis Nexis search yielded two phone numbers. One was out of service. The other was called five times between February 23, 2017, and March 10, 2017. Messages were left four times; there was no option to leave a message during the last call. Between February 15, 2017, and March 7, 2017, two letters were sent to both the address provided by § 87(2)(b)'s family and to an alternate address obtained from Lexis Nexis. None of the letters have been returned as undeliverable. Therefore, § 87(2)(b)'s testimony was unavailable.
- § 87(2)(b) was contacted by phone on March 17, 2017, but refused to provide a statement about the incident (BR 06).

### Findings and Recommendations

#### Allegations not pleaded

- **Property Damage:** § 87(2)(b) said he was holding his phone when PO Zaytsev pushed him into the bus stop. The force of the push caused him to drop the phone, shattering the screen. Because this property damage was not alleged to be a deliberate act by PO Zaytsev, but a side effect of the push, it is subsumed under the force allegation.
- **Threat of Arrest:** There is conflicting testimony about who Lieutenant Goldstein's threat of arrest was directed toward. Lieutenant Goldstein said he only threatened to arrest § 87(2)(b). § 87(2)(b) corroborated this, but § 87(2)(b) said the threat of arrest was directed toward the entire group: himself, § 87(2)(b) and § 87(2)(b). Threat of arrest allegations are pleaded for § 87(2)(b) because Lieutenant Goldstein acknowledged this, and for § 87(2)(b) because he provided testimony saying that he believed Lieutenant Goldstein's threat applied to him. Because

§ 87(2)(b) did not respond to contact attempts and § 87(2)(b) said that Lieutenant Goldstein's threat was not directed toward him, no threat of arrest allegations are pleaded on their behalves.

**Allegation A – Force: At § 87(2)(b) in Queens, Police Officer Yevgeniy Zaytsev used physical force against § 87(2)(b)**

§ 87(2)(b) said he was waiting at the bus stop after school when he saw a group of students bullying his friend, § 87(2)(b) (BR 07). The other students took § 87(2)(b)'s book bag and dumped the contents onto the street. § 87(2)(b) wanted to help § 87(2)(b) so he picked her items off the ground. There was a tampon among the items, and another boy kicked it toward § 87(2)(b). § 87(2)(b) said, "Ew, get that away from me" and kicked it away. He denied that he or any of the other students were involved in a physical altercation.

A police vehicle stopped nearby and officers identified as PO Zaytsev and PO Procida approached. Without saying anything first, PO Zaytsev grabbed § 87(2)(b) by the hood of his sweatshirt and "slammed" his face against the glass wall of the bus stop. § 87(2)(b) sustained facial pain and a swollen and busted lip. He also dropped his cell phone, shattering the screen.

PO Zaytsev held § 87(2)(b) against the glass, accusing him of "bullying little girls." When PO Zaytsev eventually let go, § 87(2)(b) ran back into his school and had no further interaction with the officers at the scene.

§ 87(2)(b) took § 87(2)(b) to § 87(2)(b) Center the next day. The main reason for the visit is listed as "swollen face due to being banged into a glass." A CT scan of his head and x-rays of his chest found no abnormalities. § 87(2)(b) complained of head pain and was given Tylenol (see Privileged Documents). § 87(2)(b)'s mother, § 87(2)(b) provided several photos depicting bleeding on § 87(2)(b)'s lip (BR 08).

As noted above, the investigation was unable to contact any of the students who witnessed the incident.

PO Zaytsev said he and PO Procida were driving down Guy Brewer Boulevard when they saw a group of about ten children "horsing around" by the bus stop (BR 09). He saw § 87(2)(b) "bullying" a girl by taking her schoolbag, throwing her books around, and kicking the books into the street. PO Zaytsev intended to break up the fight – not to arrest anyone or issue summonses.

They stopped the car and approached the group. PO Zaytsev "pulled" § 87(2)(b) away from the girl by grabbing him by the jacket. He made no other physical contact with § 87(2)(b) and § 87(2)(b) never made contact with the wall of the bus stop during the interaction. He asked § 87(2)(b) why he was kicking the girl's books. § 87(2)(b) told PO Zaytsev to "go fuck (himself)" and left. He had no further interaction with § 87(2)(b) at that location. He did not observe any injuries on § 87(2)(b).

PO Procida said he approached the girl whose bag was taken while PO Zaytsev approached § 87(2)(b) (BR 10). His testimony about PO Zaytsev's interaction with § 87(2)(b) was consistent with PO Zaytsev's testimony.

The Threat, Resistance, or Injury Report lists the type of force PO Zaytsev used as “pulled youth away from another youth.” No injuries are noted (BR 11).

§ 87(2)(b), § 87(2)(g)

**Allegation B – Abuse of Authority: At the 113th Precinct stationhouse, Police Officer Yevgeniy Zaytsev refused to provide his shield number to § 87(2)(b)**

**Allegation C – Abuse of Authority: At the 113th Precinct stationhouse, Police Officer Michael Procida refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) said that when he, § 87(2)(b) and § 87(2)(b) went to the 113<sup>th</sup> Precinct stationhouse, they first interacted with the desk sergeant, Sgt. Silvester (BR 12 and 15). They described what happened and requested the names and shield numbers of the officers responsible. Sgt. Silvester provided the names and tax numbers of PO Zaytsev and PO Procida, but said he did not know their shield numbers.

Sgt. Silvester called PO Zaytsev and PO Procida back to the stationhouse and the family met with them in a small room and discussed the incident. While they were talking, § 87(2)(b) requested their shield numbers. They did not respond to the request, but left the room and came back with their shield numbers covered up with black tape.

§ 87(2)(b) confirmed that he and his family met with officers PO Zaytsev and PO Procida in a room (BR 07). He made no mention of § 87(2)(b) or anyone else asking them for their shield numbers, although he corroborated that they asked Sgt. Silvester for their names, which Sgt. Silvester provided. § 87(2)(b) also said that, after the meeting in the room, he saw PO Zaytsev walking around with his shield removed from his shirt.

As noted above, statements could not be obtained from § 87(2)(b) or § 87(2)(b)

PO Zaytsev and PO Procida recalled speaking with § 87(2)(b) but denied that he ever requested their shield numbers and denied covering up their shields or nameplates (BR 09-10).

§ 87(2)(b), § 87(2)(g)

**Allegation D – Abuse of Authority: At the 113th Precinct stationhouse, Lieutenant David Goldstein threatened to arrest § 87(2)(b)**

**Allegation E – Abuse of Authority: At the 113th Precinct stationhouse, Lieutenant David Goldstein threatened to arrest § 87(2)(b)**

While § 87(2)(b) and his family waited for Sgt. Silvester to finish the complaint report, Lieutenant Goldstein came to the 113<sup>th</sup> Precinct stationhouse (BR 12). Lieutenant Goldstein approached the family and said that § 87(2)(b) bullied a girl. § 87(2)(b) was displeased by the comment and accused Lieutenant Goldstein of unfairly taking sides. Lieutenant Goldstein said nothing would happen to the officers as a result of § 87(2)(b)'s complaint. Without issuing any instructions first, Lieutenant Goldstein said, "I'm going to lock everyone up. Everyone's going to jail if you don't get out of here" and "I'll lock y'all up for trespassing." Lieutenant Goldstein started counting down from ten. § 87(2)(b) took the incomplete complaint form from Sgt. Silvester and he and the rest of the family left the stationhouse.

§ 87(2)(b) gave a similar account of what Lieutenant Goldstein said when he approached the group (BR 07). He said § 87(2)(b) responded by saying that § 87(2)(b) was not doing anything and telling Lieutenant Goldstein to leave him alone. Lieutenant Goldstein responded by saying, "Get out my precinct. I'm gonna press charges for trespassing." § 87(2)(b) believed this remark was directed only toward § 87(2)(b).

Lieutenant Goldstein said that Sgt. Silvester and PO Zaytsev told him about § 87(2)(b) bullying a young girl (BR 13). While Sgt. Silvester prepared the complaint report, Lieutenant Goldstein went to talk to the family because he wanted to address § 87(2)(b)'s behavior. He told § 87(2)(b) not to pick on girls. § 87(2)(b) said, "That has nothing to do with this. Your officers are going to be in a lot of trouble. We're gonna sue." Lieutenant Goldstein said they were "talking about separate issues" and that § 87(2)(b) had to "understand that that's not appropriate behavior."

The family all started "screaming" at Lieutenant Goldstein. § 87(2)(b) yelled and cursed a bit, but § 87(2)(b) was the most argumentative of the group, continually screaming and saying the word "fuck." Lieutenant Goldstein told him to stop, but § 87(2)(b) continued screaming at him. Lieutenant Goldstein said, "If you don't stop cursing, you're going to have to leave the precinct." § 87(2)(b) continued cursing and Lieutenant Goldstein told him to leave. § 87(2)(b) did not comply. Lieutenant Goldstein said, "If you don't leave the precinct, I'm going to place you under arrest." This remark was directed exclusively at § 87(2)(b). Lieutenant Goldstein never threatened to arrest any other member of the group. § 87(2)(b) could have been arrested for trespassing or obstruction of governmental administration. § 87(2)(b) said, "Fuck this. I don't have to." Lieutenant Goldstein said he would count to ten and began counting. § 87(2)(b) left the stationhouse and the rest of the family followed him, though Lieutenant Goldstein said he never told anyone else they must leave. No other officers were present during Lieutenant Goldstein's interaction with the family.

Sgt. Silvester said he heard a "loud" conversation between Lieutenant Goldstein and the family, but could not hear anything specific that was said because there is a wall between his desk and the area where Lieutenant Goldstein spoke to the family (BR 14). After the conversation, a male

family member came to Sgt. Silverster's window and insisted on leaving immediately, even though Sgt. Silvester was not finished with the complaint form.

PO Zaytsev and PO Procida said they were not present for any interaction between Lieutenant Goldstein and the family (BR 09-10).

§ 87(2)(b), § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

§ 87(2)(b), § 87(2)(g)  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED].

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Squad: 4

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date